REMARKS

Claims 36-67 are all the claims pending in the application.

Claims 36, 37, 39-53 and 55-67 are rejected under 35 U.S.C. § 102(a) as being anticipated by Murakawa (US 6,381,365). Claims 38 and 54 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Murakawa in view of "Energy-based Methods in Vibroacoustics" by Brian Mace and Eric Wester.

Murakawa relates to an image processing apparatus and image processing method for extracting textural features from an image.

Mace and Wester relates to energy-based methods in vibroacoustics.

Applicant submits that Murakawa fails to teach or suggest all of the limitations of the claims of the present invention. Specifically, Murakawa does not disclose the feature of claim 36 of generating a scale indicator indicating scale of the texture element of the image. The Examiner points to col. 8, lines 34-41 of the reference as allegedly disclosing this feature of claim 36, but Applicant disagrees. The cited excerpt states:

> *This normalization process reduces or enlarges the image to a standard image size as a means of reducing the processing time and reducing noise during image processing. In the present embodiment, images are reduced to fit a 120×120 pixel area while retaining the original aspect ratio.*
>
> *The normalized image data is then converted to a gray-scale image and digitized (S303).*

The cited excerpt does not disclose or suggest generating a scale indicator indicating scale of the texture element of the image, as recited in claim 36. The Examiner appears to be asserting that the normalized image data corresponds to the texture element of the image and the gray-scale images correspond to the scale indicator. Applicant submits that the normalized

image data does not correspond to the texture element of the image. Rather, the normalized image data simply represents reduced size images, each of a 120×120 pixel area. There is no teaching that these reduced size images correspond to a texture element. Furthermore, converting the normalized image data to gray-scale images does not correspond to generating a scale indicator indicating scale of the texture element of the image. Thus, claim 36 is not anticipated by Murakawa.

Claims 37 and 39-51 are allowable over the prior art, at least because of their dependence from claim 36.

Also, claims 52, 53 and 55-67 are not anticipated by Murakawa for reasons analogous to those for claims 36, 37 and 39-51 described above.

Furthermore, claims 36 and 52, as amended herein, each include the feature that the regularity of the image is expressed as one of values, "irregular," "slightly irregular," "regular" and "highly regular." This feature was previously recited in claims 38 and 54, which are canceled by the present Amendment. Applicant submits that claims 36 and 52 are allowable over the prior art, for the additional reason that the Mace and Wester reference fails to make up for the above-noted deficiencies of Murakawa.

Additionally, Applicant submits that there is no suggestion or motivation to combine the references. "In order to rely on a reference as a basis for rejection of an Applicant's invention, the reference must either be in the field of Applicant's endeavor or, if not, then be reasonable pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). The present invention relates to a method for describing texture features of an image. The article by Brian Mace and Eric Wester describes a series of

papers, and the paper upon which the Examiner relies for rejecting claim 38 relates to an approximation of energy flow between slightly irregular subsystems, wherein the term "irregular" refers to the geometric configuration of the subsystems. An artisan looking to improve upon a method for describing texture features of an image would not look to the art of approximating energy flow between subsystems which are slightly irregular geometrically.

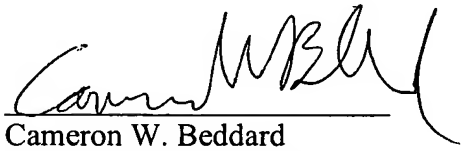
Furthermore, obviousness is tested by "what the combined teaching of the references would have suggested to those of ordinary skill in the art" (See *In re Keller*, 208 U.S.P.Q. 871 (CCPA 1981)), but it "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." Thus, "teachings of references can be combined only if there is some suggestion or incentive to do so." Here, the Examiner simply states that Murakawa teaches making similar comparisons, and the article by Mace and Wester uses the comparative terms for "irregular," and that one would be motivated to combine the teachings because image searching can be performed with good precision by extracting the basic texture pattern of an image as a feature of the image and comparing images using these detected basic texture patterns as revealed in col. 2, lines 11-14 of Murakawa. However, this is an insufficient motivation to combine the teachings. That is, there is no suggestion or incentive within the references to combine the teachings, and the Examiner has relied upon hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

Therefore, claims 36, 37, 39-53, and 55-67 are allowable over the prior art for this additional reason.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Cameron W. Beddard
Registration No. 46,545

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: March 14, 2005